IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No. 11614 of 2023

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Ankur Carrier, 107, 1st Floor, Surya Prabha Mansion, Exhibition Road, Patna, through its Proprietor namely Ram Ujagar Yadav, Male, aged About 61 Years, S/o Ram Deo Yadav Resident of 203A, Hari Om Apartment, Exhibition Road, Near Narmada Apartment, G.P.O., Patna-800001.

... ... Petitioner

Versus

1. The State of Bihar through the Commissioner, Department of State Taxes, Government of Bihar, Patna.
2. The Joint Commissioner of State Tax, Kadamkuan Circle, Patna.
3. The Additional Commissioner of State Tax, Central IB, Bihar, Patna.

... ... Respondents

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Appearance :

For the Petitioner/s	:	Mr. Gautam Kumar Kejriwal, Advocate
	:	Mr. Mukund Kuamr, Advocate
	:	Mr. Akash Kumar, Advocate
	:	Mr. Aditya Raman, Advocate
For the Respondent/s	:	Mr.Vivek Prasad (Gp 7)
	:	Ms. Supriya, Advocate

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE SOURENDRA PANDEY
ORAL JUDGMENT
(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

Date : 02-04-2025

This writ application has been filed seeking following relief(s):-

> “(a) For issuance of a writ or order or direction in the nature of mandamus commanding the respondent number 2 and 3 to release the penalty amount of ₹ 2,01,170.00 which has been unnecessarily withheld by the respondents despite judgment of the learned Commercial Taxes Tribunal, Bihar, Patna (hereinafter referred to as "the tribunal" for short) PT 99/2017;
> (b) For further issuance of a writ or order or direction upon the respondent number 2 and 3 to refund the aforesaid penalty amount to the petitioner along with interest as per section 70 of the Bihar Value Added Tax

> Act 2005 from the date such refund fell due till the date of actual payment and also adequate compensation to the petitioner on account of harassment and mental agony;
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> (c) For further holding and a declaration that once the petitioner succeeded in appeal before the learned tribunal and became entitled to refund of the penalty amount which was also requested for by the petitioner followed by several reminders, the respondents were duty-bound in law to refund the same and having failed in carrying out the said obligation, the respondents are liable to account for refund of the said penalty amount along with statutory interest and also adequate compensation as may be deemed fit by this honourable court;
>
> (d) For grant of any other relief or reliefs to which the petitioner is found entitled in the facts and circumstances of this case.”

2. It appears that earlier the petitioner had moved before the Joint Commissioner (Appeal), Patna challenging the penalty order dated 05.09.2014, however, the Appeal Case No. S.T./I.B. (C)-04/14-15 preferred by the petitioner against the penalty order was dismissed vide order dated 27.02.2017. The petitioner preferred Appeal Case No. PT-99/2017 before the Commercial Taxes Tribunal Bihar, Patna (in short ‘Tribunal’). The said appeal came to be allowed by setting aside the penalty order dated 05.09.2014 and the order dated 27.02.2017 passed by the Joint Commissioner (Appeal), Patna. Against the order of the learned Tribunal, the State of Bihar preferred Miscellaneous Appeal No.

678 of 2023 under Section 79 of the Bihar Value Added Tax Act, 2005 which has been dismissed today by this Court.

3. Since the penalty order has already been set aside and the Miscellaneous Appeal preferred by the petitioner has been dismissed, we are of the considered opinion that the writ petitioner would be entitled to the reliefs prayed.

4. We direct Respondent Nos. 2 and 3 to refund the penalty amount of Rs. 2,01,170.00/- which has been collected from the petitioner. The petitioner would also be entitled for the statutory interest as per Section 70 of the Bihar Value Added Tax Act, 2005 from the date of deposit till the date of refund. The refunds shall be made within a period of two months from today.

5. This application stands disposed of.

(Rajeev Ranjan Prasad, J)

(Sourendra Pandey, J)

Jyoti/-

AFR/NAFR	
CAV DATE	
Uploading Date	08.04.2025
Transmission Date	